

His Majesty's Land Survey Instructions in New Spain

translated by Fidel Lopez

ABSTRACT. Most history pertaining to land surveying that has been written in the United States emphasizes the British influence in the practice of land surveying, the writing of land descriptions, and the formulation and application of laws pertaining to land. This British influence in surveying methods was later mixed with colonial and early American surveying developments and was the basis for surveying this country as it spread towards the Pacific shore, "from sea to shining sea."

An influencing factor of which not much has been written is Spain's contribution to survey methods and land apportionment in Hispanic America. The discussions on the subject usually revert to translating the Mexican colonizing law of August 18, 1824, since this law influenced many land grant litigations in the United States as a result of the 1849 Treaty of Guadalupe Hidalgo. It will be evident from this article that surveying lands in the New World started long before 1824.

The material in this article is a translation of Spanish decrees that established standards for surveying land grants in Mexico during the 1500's when Mexico comprised the Kingdom of New Spain under the Spanish Empire.

Introduction

The Kingdom of New Spain extended from Guatemala to New Mexico and northwest towards Vancouver. This vast domain was governed by a viceroy who was appointed by the Spanish monarch and approved by the King's Council of Indias. The viceroy possessed absolute authority in the kingdom, including the authority to grant lands in the name of the king. Throughout the decrees the pronoun "I" appears such as "I order" or "I command," which is a manifestation of the viceroy's authority.

Each kingdom in the Spanish Empire had a Real Audencia which was the highest court in the kingdom and was comprised of judges who heard each legal case and rendered judgment. In land litigations cases one judge was usually assigned to the case who was responsible for hearing the evidence, interrogating the witnesses, and surveying the land if the case warranted it. In cases where a survey was necessary the judge would assign the surveying task to a judge delegate, who, in turn, would probably hire a surveyor to conduct the survey.

In the content of the translated material, four Spanish terms appear repeatedly. The terms are *cavalleria*; *sitio de ganado mayor*; *sitio de ganado menor*; and *criadero*. These

terms specified the type of land grant that was awarded to the petitioner. A *cavalleria* was a land parcel for grazing horses and mules; a *sitio de ganado mayor* was land for grazing horses, asses, cows, mules, and oxen; a *sitio de ganado menor* was land for grazing goats and sheep; and a *criadero* was a smaller parcel of land for breeding livestock. The type of land grant dictated how much land area was granted to the petitioner. All *cavalleria* contained the same amount of land, as was the case with each *sitio de ganado mayor, menor, and criadero*.

The decree also contains measurement and land description terms which may not be familiar to most readers. The material enclosed in [] (brackets) in the body of the translation are this author's attempt to clarify or amplify unfamiliar terms in the translation.

Book of Decrees¹

"On the Measure of Lands; Visual Reconnaissance; and of the Need for this Information."

This royal order and instructions for measurement of portions of land, whether *cavallerias, sitios de ganado mayor, or sitios de ganado menor*, was proposed by the Maestro D. Joseph Saenz de Escobar, Counselor of

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the Real Audencia. It was acted upon and approved by the judges and the council of the Real Audencia of Mexico City and confirmed by the Excellent Señor Don Antonio de Mendoza, former viceroy of New Spain. These royal orders and instructions were promulgated in the public square of said city by town crier Juan Montilla on Tuesday, the 4th of July, in the year 1536.

Licentiate Loyza on behalf of the viceroy said: "I order that no person act or shall act against this order on penalty of loss of lands even if lands have legitimate titles.

"That for acting against this order all grants will be declared void and without effect. All grants made henceforth will be in conformity to this order and subject to other conditions exercised by royal law as applied to grants made by His Majesty or on his behalf."

This order applies to all of New Spain.

Thus it was decreed and ordered on said day of July 4th of the year One Thousand Five Hundred and Thirty-Six.

Confirmation of Affirmed and Amended Real Orders

In Mexico City of New Spain on the nineteenth of the month of September of the year One Thousand Five Hundred and Thirty-Seven, the Very Excellent Señor Dr. D. Gaston de Peralta, Marquis of Falce, Count of Santi Esteban, His Majesty's administrator in the Kingdom of Navaro, and His Majesty's viceroy and Captain General of New Spain and of this Real Audencia, did affirm the instructions that shall be practiced to measure, monument, give possession, and layout portions of land. Many parcels of cavalierias, sitios de ganado mayor, and menor have been granted and it appears that not all are in order. Therefore, the viceroy ordered that the said orders be corroborated, amplifying and adding the ones that lack, and substantiating the penalty imposed by the judges which is loss of all lands for all who do not obey said instructions and orders which are the following:

Cordel [Chain]

Be advised that the cordel to measure sitios de ganado mayor and menor shall consist of 50 Mexican varas [1 Mexican vara = 32.80 in.];² and to measure cavalierias the cordel shall

consist of 69 Mexican varas. The cordel shall be extended as much as possible and then the measurement taken.

Sitio de Ganado Mayor

A sitio de ganado mayor consists of 3,000 geometric ft.; each foot consists of $5/3$ varas. The sitio extends from east to west and from north to south, and from the center of the sitio to any of the four sides the distance is 1,500 geometric ft. The sitio de ganado mayor measured in Mexican varas is 5,000 varas from east to west and the same from north to south. It contains nine equal parts; eight parts of the sitio equal two sitios de ganado menor and the one part remaining is equal to $1/4$ of sitio de ganado menor. [See translator's Figure 1.] The sitio de ganado mayor is equal to 41 cavalierias with 14,272 varas remaining.

The sitio de ganado mayor, measured with a 50 vara cordel, shall have 100 cordeles which is 5,000 varas from east to west and the same from north to south. From the center to either of the four sides it shall consist of 50 cordeles which is 2,500 varas, and measuring from corner to corner through the center it shall consist of 140 cordeles which is 7,000 varas.

All sitios shall be laid out in the form of a cross. The center of the cross shall be established, and from the center the measurement shall be accomplished to the East, West, North, and South. The measurement shall be laid out as specified unless the interested parties agree to another arrangement.

In order to ascertain a more accurate determination of East, West, North, and South, the sighting of the sun shall be accomplished during the months of March, April, September, or October. A sundial shall be used to establish the four directions.

The sitio de ganado mayor shall be laid out in the following manner: From the end of the east course, 2,500 varas shall be measured towards the north and the same towards the south. Starting from the end of the west course, 2,500 varas shall be measured towards the north and the same towards the south. Starting from the end of the north course, 2,500 varas shall be measured towards the east and the same towards the west. Starting from the end of the south course, 2,500 varas shall be measured towards the west and the same

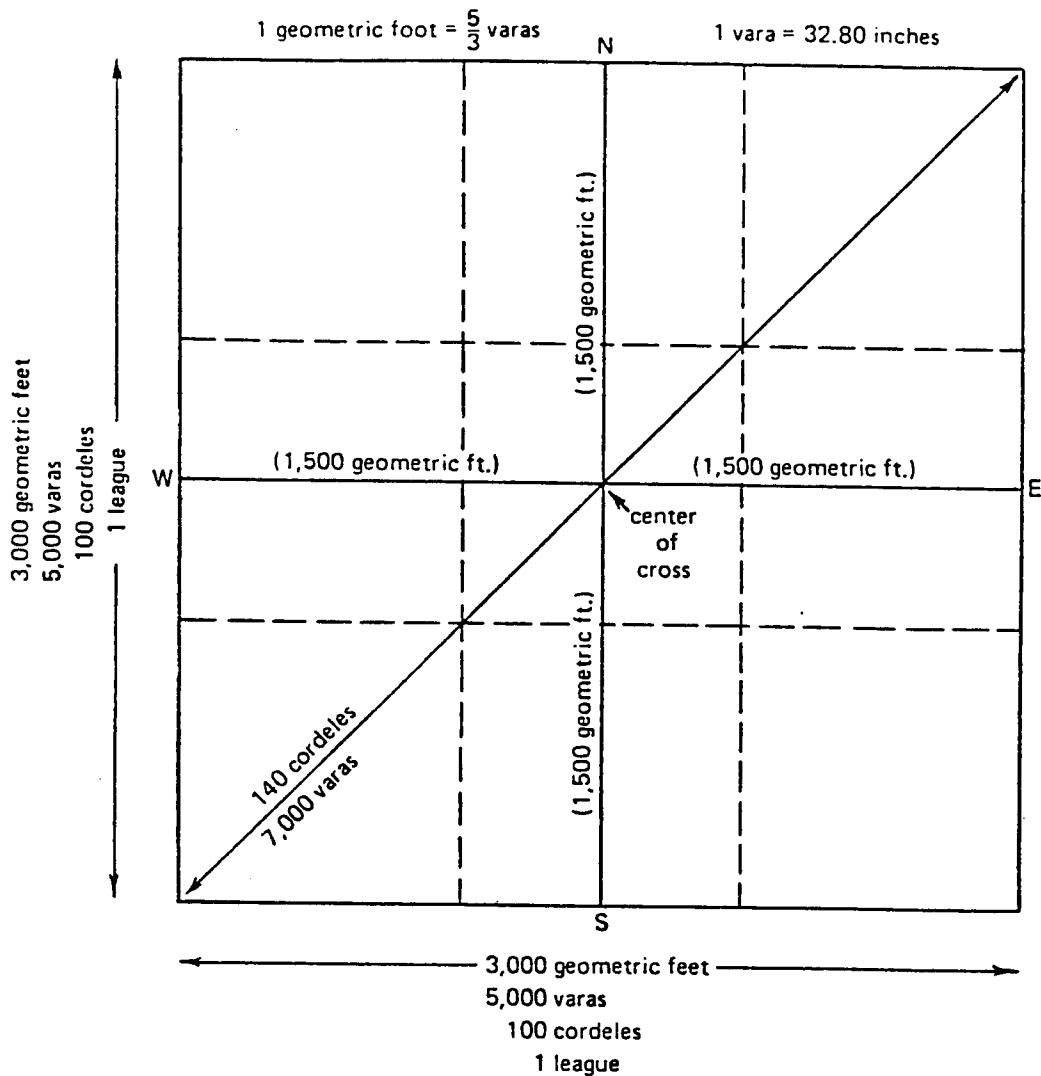


FIGURE 1. Sitio de Ganado Mayor

towards the east. These are the measurements of a sitio de ganado mayor. The sitio de ganado menor and criaderos shall be laid out in the same manner, each according to its corresponding dimensions as ordered.

The centers of the criaderos and sitios de ganado mayor, menor, and cavallerias having been established, the most senior grant shall be laid out first even if seniority is only for a day or an hour. The less senior follows and the least senior shall be satisfied with what remains. It is inferred from this and I command that no person, even if senior according to his title or grant, can take possession, survey, or monument without notifying

the owners that border on his lands. Those acting contrary to this shall find their claim void, null, and without effect.

The measurements shall extend over boulders, ascending and descending hills, and slopes. Ravines and rivers shall be bypassed. Pathways should be cut if the terrain is densely wooded or brushy.

It is ordered that each surveyed parcel of land be monumented, that each owner allow for entrances and exits on adjacent properties, and that each owner leave 10 varas of fence-free unoccupied land. The monuments are obligatory and binding on each.

No person can occupy or build on the

property line or too close to it unless permission is obtained from the adjacent owner. Without such permission a distance of 60 ft. from the property line shall be maintained.

Be advised that of the cavallerias surveyed but not yet granted by His Majesty, the most useful land in them shall be selected for planting even if in the cavallerias there are ravines, plateaus, rocky soil, lakes, or salt beds. The useless land should not exceed 1/8 of the cavalleria and can be replaced in the cavallerias occupied by others. The most senior owner shall be recognized and he should not be concerned if others take land from him because it shall be replaced as required by virtue of his being senior. Thus, the least senior of all shall be satisfied with what he finds or with what is left, even if it is a useless, small, or sparse portion.

END OF TRANSLATION

Conclusion

The measurements and instructions mentioned in the transcript remained in effect throughout the duration of the Spanish domination of Mexico. Soon after Mexico became independent from the Spanish Crown in 1821, the independent sovereign government of

Mexico enacted a decree on February 4, 1823, which stipulated the measurements applicable to measure sitios de ganado mayor. The measurements were the same as the ones decreed by the viceroy in 1537, nearly 300 years earlier.

The British influence and the developed American methods of surveying were to converge with the Spanish influence as a result of the U.S. acquisition of Mexico's northwest provinces, which were destined to become the States of California, New Mexico, Arizona, Texas, and others, according to the terms of the Treaty of Guadalupe Hidalgo proclaimed July 4, 1848.

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About the translator

Fidel Lopez is a boundary determination technician, employed by the California State Lands Commission. He has done extensive research in Spanish documents, manuscripts, and rare books alluding to land grants and survey instructions in Hispanic America. He is familiar with the Bancroft research facility of the University of California-Berkeley and the Spanish archives of the California State Archives, and uses both facilities often.

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